

**ASSEMBLY BILL**

**No. 867**

**Introduced by Assembly Member Liu**

February 18, 2005

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An act to add Division 4.5 (commencing with Section 4500) to the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

AB 867, as introduced, Liu. Vote by mail.

Existing law authorizes a local, special, or consolidated election to be conducted wholly by mail if the governing body of the local agency authorizes the use of all mailed ballots for the election, the election is held on an established mailed ballot election date, and the election meets certain other specified requirements.

This bill would, until January 1, 2011, authorize 3 counties, selected by the Legislature from counties that volunteer, to participate in a vote-by-mail pilot project. The bill would require the 3 specified counties to provide the voters in that county, for any local, special, primary, or general election to be held in the county for the duration of this pilot program, with ballots that may be returned by mail.

The bill would require that a county elections official mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope no sooner than the 18th day before the date of an election conducted by mail and no later than the 14th day before the date of the election, to each voter in the precinct who is registered as of the 29th day prior to the election and mail the ballot no later than 3 days before the election to any voter who is registered as of the 7th day prior to the election.

The bill would set forth the procedures for completing and returning a vote by mail ballot.

The bill would provide that a vote-by-mail ballot be counted only if the ballot is returned in the return identification envelope, the envelope is signed by the voter to whom the ballot is issued, the signature is verified by the elections official, as specified, and the ballot, if returned by mail, is postmarked no later than the date of the election.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Division 4.5 (commencing with Section 4500) is  
2 added to the Elections Code, to read:

3  
4 DIVISION 4.5. VOTE BY MAIL  
5

6 4500. The Legislature finds and declares all of the following:

7 Voting by mail is a relatively new concept, first tried in  
8 Monterey, California, in 1977. Since that time, many elections  
9 have been held by mail, from local ballot initiatives to contests  
10 for federal office.

11 Vote by mail is cost effective. The cost of a vote-by-mail  
12 election is nearly 30 percent less than the cost of a polling place  
13 election.

14 In states that have tried voting by mail, voter turnout has  
15 increased. In Oregon, a state which conducts all elections by  
16 mail, 84 percent of those registered to vote, voted in the 2004  
17 election.

18 Voting by mail is convenient because it allows voters to vote  
19 according their own schedules and eliminates long lines at  
20 polling places.

21 Voting by mail creates a more informed voting public because  
22 individuals have time to study the issues and candidates, to get  
23 questions answered, and to clarify any points of confusion.

24 Thus, it is the intent of the Legislature to establish a  
25 vote-by-mail pilot project in specified counties before  
26 implementing voting by mail on a statewide basis.

27 4501. (a) Notwithstanding any other provision of law, three  
28 counties, to be selected by the Legislature from counties that

1 volunteer, shall participate in the vote-by-mail pilot project  
2 established pursuant to this division.

3 (b) The three counties selected pursuant to subdivision (a)  
4 shall provide the voters in that county, for any local, special,  
5 primary, or general election to be held in the county for the  
6 duration of this pilot program, with ballots that may be returned  
7 by mail.

8 4502. (a) An county elections official shall mail by  
9 nonforwardable mail an official ballot with a return identification  
10 envelope and a secrecy envelope no sooner than the 18th day  
11 before the date of an election conducted by mail and no later than  
12 the 14th day before the date of the election, to each voter in the  
13 precinct who is registered as of the 29th day prior to the election.

14 (b) An elections official shall mail by nonforwardable mail an  
15 official ballot with a return identification envelope and a secrecy  
16 envelope no later than three days before the election to any voter  
17 who is registered as of the seventh day prior to the election.

18 4503. All of the following apply to a vote-by-mail election  
19 held on the date of a primary election:

20 (a) The elections official shall mail the official ballot of a  
21 major political party to each voter who is registered as being  
22 affiliated with the major political party as of the 29th day before  
23 the date of the election.

24 (b) A voter who is not affiliated with any political party shall  
25 be mailed the ballot of a major political party in whose primary  
26 election the voter wishes to vote if the voter has applied to the  
27 county clerk in writing prior to 5 p.m. on the 29th day before the  
28 date of the election and requested the ballot of that political  
29 party.

30 4504. The ballot or ballot label shall contain the following  
31 warning:

32 “Any person who, by use of force or other means, unduly  
33 influences a voter to vote in any particular manner or to refrain  
34 from voting, is subject, upon conviction, to imprisonment or to a  
35 fine, or both, as provided in Chapter 6 (commencing with Section  
36 18500) of Division 18 of the Elections Code.”

37 4505. (a) On the receipt of any ballot described in this  
38 division, the voter shall mark the ballot, sign and return the  
39 identification envelope supplied with the ballot, and comply with  
40 the instructions provided with the ballot.

1 (b) The voter may return the marked ballot using any of the  
2 following methods:

3 (1) By mail, with the postage paid, provided that the ballot  
4 envelope is postmarked no later than the date of the election.

5 (2) By depositing the ballot at the office of the elections  
6 official.

7 (3) By depositing the ballot at any other place designated by  
8 the elections official for the return of ballots.

9 (c) The ballot shall be returned in the return identification  
10 envelope.

11 4506. The elections official shall provide, at any location  
12 where ballots are issued, suitable compartments, shelves, or  
13 tables at which voters may mark their ballots. The arrangement  
14 of the compartments, shelves, or tables shall ensure that the voter  
15 may conveniently mark the ballot with absolute secrecy. The  
16 compartments, shelves, or tables shall be available during the  
17 entire time that the ballots are issued.

18 4507. (a) The elections official shall send a second  
19 vote-by-mail ballot to any voter upon receipt of a statement  
20 under penalty of perjury that the voter has failed to receive, lost,  
21 or destroyed his or her original ballot.

22 (b) The elections official shall keep a record of each absent  
23 voter ballot sent to, and received from, a voter and shall verify,  
24 prior to counting any duplicate ballot, that the voter has not  
25 attempted to vote twice. If it is determined that the voter has  
26 attempted to vote twice, both ballots shall be void.

27 4508. (a) A vote-by-mail ballot shall be counted only if the  
28 all of the following requirements are met:

29 (1) The ballot is returned in the return identification envelope.

30 (2) The envelope is signed by the voter to whom the ballot is  
31 issued.

32 (3) The signature is verified pursuant to subdivision (b).

33 (4) The ballot, if returned by mail, is postmarked no later than  
34 the date of the election.

35 (b) The elections official shall compare the signature of each  
36 voter on the return identification envelope with the signature on  
37 the voter's registration card, according to procedures established  
38 in rules adopted by the Secretary of State, and verify that the  
39 signatures match.

1     4509. The elections official shall keep open for public  
2 inspection a list, by voter name, of all vote-by-mail ballots that  
3 have been received.

4     4510. This division shall become inoperative on January 1,  
5 2011, unless a later enacted statute deletes or extends that date.

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